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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,872	11/19/2001	Youngky Kim	SAMS01-00195	6265
7590 11/15/2005			EXAMINER	
William A. Munck			PHAM, BRENDA H	
Novakov Davis & Munck, P.C. 13155 Noel Road, Suite 900 Dallas, TX 75240			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	/k					
	Application No.	Applicant(s)				
	10/001,872	KIM ET AL.				
Office Action Summary	Examiner	Art Unit				
	Brenda Pham	2664				
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D. Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	I. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 19 N	ovember 2001.					
2a) This action is FINAL . 2b) ☐ This	☐ This action is FINAL . 2b) ☐ This action is non-final.					
3) Since this application is in condition for allowa						
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>35-54</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
· <u></u>	5) Claim(s) is/are allowed.					
•	S)⊠ Claim(s) <u>35-54</u> is/are rejected.					
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.						
o) are subject to rectife and are						
Application Papers						
9) The specification is objected to by the Examiner.						
10)⊠ The drawing(s) filed on 19 November 2001 is/are: a)⊠ accepted or b)□ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)	_					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date						
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 		atent Application (PTO-152)				

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DETAILED ACTION

1. Claims 35-54 are pending in this application.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 35-54 are rejected on the ground of nonstatutory double patenting over claims 1-12 of U. S. Patent No. 6,320,851 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: transmit reverse link data to said at least one base station using a forward channel link chip rate and receive forward link data from said at

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least one base station using a reverse channel link chip rate, wherein said forward channel link chip rate is asymmetrical to said reverse channel link chip rate.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

November 7, 2005

Brenda Pham Brenda A. Pham